



UNITED STATES MARINE CORPS

COMMANDER, MARINE FORCES RESERVE
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ORIGINAL

ForO 5800.2A
SJA

FORCE ORDER 5800.2A

From: Commander
To: Distribution List

Subj: PROTECTION AND ASSISTANCE OF CRIME VICTIMS AND WITNESSES

Ref: (a) MCO 5800.15
(b) SECNAVINST 5800.11A
(c) DoD Directive 1030.1
(d) DoD Directive 1030.2
(e) Manual for Courts-Martial, United States, 1995 (MCM)
(f) Uniform Code of Military Justice
(g) MCO P1700.24A (Family Services Center SOP)
(h) SECNAVINST 1752.3A
(i) MCO 1752.3B (Marine Corps Family Advocacy Program)
(j) MCO 5110.1C (Motor Vehicle Traffic Supervision)
(k) JAGINST 5800.7C (JAGMAN)
(l) SECNAVINST 5720.42F (DON FOIA Program)
(m) SECNAVINST 5211.5D
(n) MCO P5211.2B (The Privacy Act of 1974)

1. Purpose. To implement throughout Marine Forces Reserve (MARFORRES) procedures mandated by references (a), (b), (c) and (d).

2. Cancellation. ForO 5800.2.

3. Background. Reference (a) directs all commands to develop and implement procedures to provide information and assistance to crime victims and witnesses, and to ensure that law enforcement personnel, judge advocates, and all other personnel associated with the military criminal justice process, receive appropriate training consistent with the provisions of references (a), (b), (c) and (d). This Order is not intended to and does not create any rights, substantive or procedural, enforceable at law by any person in any matter, civil or criminal.

4. Definitions

a. Serious Offense. An offense involving personal violence or attempted or threatened personal violence, for which a maximum period of confinement of one year or more is authorized under reference (e). "Serious offense" also includes an offense involving the destruction or permanent loss of property of a value of more than \$100.00.

20 Nov 98

b. Victim. A person who has suffered direct physical, emotional, or financial harm as a result of the commission of a crime in violation of the UCMJ (reference (f)), (or in violation of the law of another jurisdiction in cases where military authorities have been notified). Such individuals shall include, but are not limited to, the following:

(1) Military members and their family members.

(2) When stationed outside the continental United States, DOD civilian employees and contractors, and their family members. This program applies to services not available to DOD civilian employees and contractors, and their family members, in stateside locations, such as medical care in military medical facilities.

(3) When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term includes one of the following: a legal guardian, spouse, parent, child, sibling, another family member, or another person designated by the court or local responsible official, or designee.

(4) The term "victim" does not include an individual involved in the crime as a perpetrator or accomplice, even though the individual may be one of the representatives described above.

(5) For a victim that is an institutional entity, an authorized representative of the entity. Federal Departments and State and local agencies, as entities, are not eligible for services available to individual victims.

c. Witness. A person who participates in a Department of the Navy (DON) criminal investigation or proceeding pursuant to reference(f), for the purpose of providing information or evidence concerning an offense within the investigative jurisdiction of a DON activity. When the witness is a minor, this term includes the minor's parents, or any person having legal custody of the minor. "Witness" does not include a person allegedly involved in an offense as a co-conspirator, accomplice, or other principal, even if that person shall offer to or actually testify on behalf of either the Government or the defense at any military justice proceeding.

5. Policy. MARFORRES's policy is to provide the best possible protection and assistance to crime victims and witnesses in the military justice process without infringing upon the constitutional rights of the accused. The goals are to mitigate, within the means of available resources and in accordance with applicable law, the physical, psychological, emotional, and

financial hardships suffered by victims of crimes, while fostering cooperation by victims and witnesses. Members and employees of MARFORRES will treat all victims and witnesses with respect. All servicemembers and MARFORRES employees will make their best effort to ensure that victims and witnesses of crime are informed of their rights and provided assistance as appropriate. Particular attention should be paid to victims of serious, violent crime, including child abuse, domestic violence, and sexual misconduct. As provided in 42 U.S.C. et seq. and 18 U.S.C. 1512-1514, a crime victim has a right to:

- a. Be treated with fairness and respect.
- b. Be reasonably protected from the accused offender.
- c. Be notified of court proceedings.
- d. Be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
- e. Confer with the attorney for the Government in the case.
- f. Receive available restitution.
- g. Be provided information about the conviction, sentencing, imprisonment, and release of the offender.

6. Action

a. All Unit Commanders, utilizing their Site Judge Advocates if assigned, shall investigate and determine what victim assistance facilities and agencies are available within the local community, make liaison with them, and reach agreement regarding their availability to military personnel (both Regular and Reserve) and their dependents. All victims, when circumstances dictate, should be informed promptly of the availability of emergency medical and social care, chaplain assistance, and be provided assistance in securing such care. Specific appropriate response procedures are as follows:

(1) Sexual or Indecent Assault Cases. Family Service Centers (FSC's) have been established at all major Marine Corps bases and stations. The FSC will coordinate existing military support resources and civilian social service agencies to assist a victim or witness and develop needed services (see reference (g)). Reference (g) indicates that the services are available to all active duty personnel and available to reserve

20 Nov 98

personnel on a space-available basis; however, as a practical matter, the facilities are available to all Marines, Regular or Reserve. FSC's are also found at many Navy installations. The Army and Air Force have comparable programs that can be used by Marines and their dependents. Call 1-(800) 336-4663 for questions regarding FSC facilities, locations, and services provided. If a FSC or other Department of Defense (DoD) counterpart is not locally available, the Unit Commander (or Site Judge Advocate) should contact the appropriate local civilian agency and establish procedures for referring military personnel.

(2) Family Violence or Neglect. Reference (h) established the Family Advocacy Program (which includes the previously established Child Advocacy Program) in order to prevent family maltreatment through information and education. The program's additional purposes are to advise as to disciplinary action against perpetrators, provide treatment for victims, and support "at-risk" families. The Family Advocacy Program is DoD wide. Reference (i) establishes the Marine Corps Family Advocacy program, but is not applicable to the Reserves. Therefore, all Regular and Reserve commanders (and Site Judge Advocates) are directed to become familiar with the principles set forth in reference (i). All Commanders and Site Judge Advocates shall inform the members of their units of applicable local laws requiring the reporting of certain offenses and to whom the offenses must be reported.

(3) Alcohol/Drug Related Vehicle Accidents. Reference (h) provides guidance in this area and commanders are encouraged to read and apply its principles.

(b) Standard Information to be Provided to All Victims.

(1) Available crime victim compensation (including possible restitution), if any;

(2) Available command and/or community-based victim treatment programs, the location of those programs, and a point of contact at the program facility;

(3) Stages in the military criminal justice process of significance to the victim, and the role that the victim plays in the process; and

(4) How the victim can obtain additional information about the process and the case. Disclosure of information regarding the accused is limited by the Privacy Act.

c. Victim's Property. A victim's property held for evidence will be safeguarded and returned as quickly as possible,

consistent with the Military Rules of Evidence and the needs of the Marine Corps.

d. Witness Assistance. All units within the MARFORRES shall coordinate with their MSC's to ensure that witnesses are provided the following information and services:

(1) When appropriate, a witness should be informed as to the availability of protection from intimidation or similar threats. Appropriate arrangements should be made by the Site Commander (or Site Judge Advocate) to ensure availability of such protection in the event protection is not available from other military sources.

(2) A witness to a serious offense should be advised to provide the Unit Commander with a current address or telephone number, so that the witness can be notified in advance, if possible, of the following:

- (a) The apprehension of the accused;
- (b) The pretrial release of the accused;
- (c) The trial or entry of a plea of guilty and sentencing proceedings;
- (d) Any hearing to determine a parole release date (if the witness is a victim); and
- (e) The release of an accused from any period of confinement (if the witness is a victim).

(3) A witness who has been scheduled to attend any proceeding shall be notified promptly by the counsel who requested the appearance of the witness or by the unit legal officer, of scheduling changes affecting the witness' attendance.

(4) At courts-martial and other proceedings, witnesses should be afforded, to the extent practicable and appropriate, the opportunity to wait in an area separate from the accused or other witnesses, in order to avoid embarrassment, coercion, or similar emotional distress.

(5) Upon request of a witness, reasonable steps should be taken to inform the command or employer of the witness why the witness is absent from work or place of duty. If the witness is a reservist, orders may need to be issued to provide verification for the reservist's employer that the reservist is required to be

ForO 5800.2A

20 Nov 98

away from work for a certain period for trial purposes. In addition, a witness who is subject to serious financial strain as a direct result of the crime or as a result of cooperation in the investigation or prosecution of an offense, should be assisted by responsible officials in explaining to creditors the reasons therefor.

(6) Witnesses should be provided with appropriate assistance in obtaining available services such as transportation, parking, child care, lodging, and courtroom translators or interpreters. Local transportation may be provided where resources and regulations permit. Regarding child care, the FSC may be of assistance; if there is no local FSC, the command should advise the witnesses of services and facilities available in the community. See also section 0146 of reference (k).

(7) Witness services described above shall be rendered to defense as well as prosecution witnesses. The extent to which witnesses are provided services shall be made on a case-by-case basis.

(8) A request from a witness for release of investigative reports or other documents pertaining to the alleged crime concerned must be processed in accordance with references (j) through (n).

e. MARFORRES Staff Judge Advocate. The Marine Forces Reserve Staff Judge Advocate (SJA), or his designee, shall coordinate with the Major Subordinate Commands (MSC's) to ensure that the procedures of DOD Directive 1030.2 are followed, to include utilization of DD Forms 2701, 2702, 2703, 2704 and 2705 for the dissemination of information to victims.

7. Reserve Applicability. This Order is applicable to the Marine Corps Reserve.

P. J. DULIN
Chief of Staff

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Copy to: CMC (JAM)
Site Judge Advocate